

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

IN RE:

**DEAN A. DITMAR and KELLY E.
DITMAR,**

Debtors.

**CHAPTER 11
SUBCHAPTER V**

CASE No. 21-20935-jrs

SECOND MODIFICATION TO PLAN OF REORGANIZATION

COME NOW Dean and Kelly Ditmar (“Debtors”), debtors and debtors in possession in the above-captioned case, and file this *Second Modification to Plan of Reorganization* (this “Modification”). In support of the Modification, Debtors show the Court as follows:

Background

1. On November 29, 2021, Debtors filed their “Plan of Reorganization” (the “Plan”) (Doc. No. 50).
2. On December 6, 2021, the Court entered an order (i) setting the deadline for objections to the Plan and deadline for casting ballots for the Plan as January 20, 2022, and (ii) setting a hearing on confirmation of the Plan (the “Confirmation Hearing”) for January 27, 2022.
3. On January 24, 2022, Debtors filed their “First Modification to the Plan of Reorganization” (Doc. No. 79).

The Plan Modification and Legal Authority

4. Debtors hereby modify the Plan in accordance with §1193(a) of Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). The changes do not materially or adversely

affect the rights of any parties in interest which have not had notice and an opportunity to be heard with regard thereto.

5. The Plan, and specifically Article 4, Section 4.5, Class 5 of the Plan, is hereby amended to revise the default language and address an asserted escrow arrearage. Article 4, Section 4.5, Class 5 of the Plan is deleted in its entirety and replaced with the following:¹

4.5 Class 5: Secured Claim of Christiana Trust, a division of Wilmington Savings Fund Society, FSB, as Trustee for the benefit of the Certificateholders of the CSMC Trust 2015-WIN1

Class 5 consists of the Secured Claim of Christiana Trust, a division of Wilmington Savings Fund Society, FSB, as Trustee for the benefit of the Certificateholders of the CSMC Trust 2015-WIN1 (“Christiana Trust”) as serviced by Select Portfolio Servicing, Inc. (“SPS”). Debtor scheduled SPS as holding a secured claim in the amount of \$437,918.07 secured by a first priority lien on Debtor’s residence commonly referred to as 3085 Wills Mill Road, Cumming, GA 30041 (the “Residence”). On November 9, 2021, Christiana Trust filed proof of claim 16 asserting a secured claim in the amount of \$441,329.70 (the “Class 5 Secured Claim”) secured by Debtor’s Residence. Such Class 5 Secured Claim consists of (i) \$436,699.03 in principal, (ii) \$1,517.65 in interest, (iii) \$95.23 in fees and costs. The Class 5 Secured Claim also includes an asserted escrow shortage due at the date of filing in the amount of \$3,047.79 (the “Asserted Class 5 Arrearage”). Christiana Trust’s Class 5 Secured Claim is evidenced by the following loan documents (collectively the “Christiana Trust Loan Documents”): (i) promissory note in the original principal amount of \$538,000.00 dated September 3, 2014 with HeritageBank of the South as lender and (ii) Security Deed dated September 3, 2014 recorded in the real property records of Forsyth County, Georgia at deed book 7135, pages 71-90.

The Allowed Class 5 Secured Claim of Christiana Trust shall continue and attach to the Residence to the same extent, validity, and priority as existed on the Filing Date. Debtors are current on their post-petition obligations to Christiana Trust and intends to remain current on the same, but shall be responsible for any missed payments and associated late fees in accordance with the Christiana Trust Loan Documents should they not be current on the Effective Date. The Christiana Trust Loan Documents, as they relate to Debtors, shall continue in full force and effect on the Effective Date and Debtors will continue to pay the regular monthly payments pursuant to the Christiana Trust Loan Documents. In addition to the monthly payment amount, Debtors shall pay the Asserted Class 5 Arrearage as may be required by Christiana Trust and/or SPS through a future escrow analysis.

For the avoidance of doubt, Article 2.3 of the Plan shall not apply to the Class 5 Creditor

¹ Capitalized terms not otherwise defined herein shall have the same meaning as in the Plan.

and Debtors and Class 5 Creditor shall continue to be bound by the terms of the Security Deed referenced above.

The Claim of the Class 5 Creditor is unimpaired by the Plan and the holder of the Class 5 Claim is not entitled to vote to accept or reject the Plan. The Class 5 Creditor is granted relief from the automatic stay provided for by 11 U.S.C. § 362 upon confirmation of the Plan.

6. Except as expressly set forth in this Modification, all terms and provisions of the Plan remain in full force and effect.

7. By the signature of counsel for Christiana Trust, a division of Wilmington Savings Funds Society, FSB, as Trustee for the benefit of the Certificateholders of the CSMC Trust 2015-WIN1 (“Christiana Trust”) below, Christiana Trust’s ballot rejecting the Plan in Class 5 (Doc. No. 65) are hereby deemed to accept the Plan, as amended by this Modification and Christiana Trustee’s Objection (Doc No. 64) is hereby withdrawn.

Submitted this 26th day of January, 2022.

JONES & WALDEN LLC

/s/ Thomas T. McClendon
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/s/ Dean Ditmar
Dean Ditmar

/s/ Kelly Ditmar
Kelly Ditmar

Attorney for Debtors in Possession

**Consented to, Objection Withdrawn, and Ballot Deemed
as Accepting in Class 5 by Christiana Trust,
by and through their Attorney:**

Rubin Lublin, LLC

/s/ Bret J. Chaness

Bret J. Chaness

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Attorney for Christiana Trust

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CERTIFICATE OF SERVICE

This is to certify that on this day the foregoing *Second Modification to Plan of Reorganization* was electronically filed using the Bankruptcy Court's Electronic Case Filing program which sends a notice of and an accompanying link to this document to the following parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing program:

- **Lisa F. Caplan** lcaplan@rubinlublin.com, nbrown@rlselaw.com; akhosla@rlselaw.com; ruluecf@gmail.com; BKRL@ecf.courtdrive.com
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- **David S. Weidenbaum** david.s.weidenbaum@usdoj.gov

This 26th day of January, 2022.

JONES & WALDEN LLC

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